

EXHIBIT H

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA

CARYN DEVINS STRICKLAND, : CIVIL NO.
Plaintiff 1:20-cv-00066-WGY
vs. :
UNITED STATES, et al.,
Defendants :

DEPONENT: EDWARD G. SMITH, ESQ.

DATE: APRIL 20, 2023

TIME: 10:00 a.m.

LOCATION: CLARK BOLEN

671 JAMESTOWN DRIVE, SUITE 206D

MURRELLS INLET, SC

REPORTED BY: CAROL T. LUCIC, RPR, RMR

CLARK BOLEN COURT REPORTING & VIDEO CONFERENCING

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1 A P P E A R A N C E S

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3 ON BEHALF OF THE PLAINTIFF:

4 THOMAS, FERGUSON & BESKIND, LLP

5 BY: OLIVIA WARREN, ESQ.

6 119 EAST MAIN STREET

7 DURHAM, NC 27701

8

9 ON BEHALF OF THE DEFENDANT:

10 UNITED STATES DEPARTMENT OF JUSTICE

11 CIVIL DIVISION, FEDERAL PROGRAMS BRANCH

12 BY: RACHAEL WESTMORELAND, ESQ.

13 MADELINE McMAHON, ESQ.

14 DANIELLE YOUNG, ESQ. (via Zoom)

15 KRISTIN MANNHERZ, ESQ. (via Zoom)

16 1100 L STREET, N.W.

17 WASHINGTON, D.C. 20005

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19 PRESENT (via Zoom) COOPER STRICKLAND, ESQ.

20 CARYN STRICKLAND, ESQ.

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3 EDWARD G. SMITH, ESQ.

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1 A. No.

2 Q. In January of 2019 when Mr. Ishida
3 contacted you, what was your understanding of how
4 mediation worked under Chapter 10 of the EDR plan?

5 A. My understanding is a mediator is
6 designated, and I get that designation if it's
7 appointing me or if there is somebody else
8 involved, it would go to them. I then review
9 whatever documentation I may have. My typical
10 procedure has really been to talk to the parties
11 separately initially anyway. Sometimes we do end
12 up getting together eventually.

13 It's my role to see if I can settle it
14 within the confines of the remedies within the EDR
15 plan or, as in this case, I really wasn't dealing
16 with those remedies because there really wasn't a
17 remedy that fit the situation. I was trying to see
18 if I could work out a way to send Caryn back to
19 work that was acceptable to her.

20 Q. Do you remember if this case was
21 proceeding under the 2013 EDR plan or the 2018 EDR?

22 A. '13.

23 Q. The 2013?

24 A. Well, it was proceeding under a different
25 plan than we're under now. I don't really know the

1 A. I was only dealing with trying to get her
2 back in the office.

3 Q. I know you said you didn't feel there was
4 a remedy that fit that situation, and I think you
5 just said you weren't dealing with these, so what
6 remedies were you dealing with?

7 A. There wasn't a remedy that I could utilize
8 to fit this situation. Maybe the internal
9 investigation would fit a remedy. That's separate
10 and apart from me. All my authority is what is
11 given to me by the Court. My job description is I
12 mediate civil disputes between counsel and parties.
13 I was asked to participate in the EDR as a mediator
14 because I'm a mediator. My charge is here are your
15 remedies, mediate this case, and see if you can
16 resolve it.

17 You can read these. None of these are
18 going to do anything in this particular case, so I
19 was trying to figure out how I was going to get
20 Caryn back in the office in such a way where she is
21 given some concessions where she's happy, and
22 that's what I did.

23 Q. Did you tell Caryn that you were operating
24 with remedies outside of the plan?

25 A. No. I said I was trying to work out a way

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[illegible]

1 A. You have to understand I wasn't thinking
2 this through. These are general things that
3 mediators use to try to say, hey, I don't know what
4 the motivation was. You could be right, but it
5 could be all of these other things. Let's figure
6 it out. Then I go meet with Tony, and I'm hit with
7 what I'm hit with. One reason I asked Caryn some
8 of these questions is I want her impression because
9 if I walk in and I get hit with the same thing,
10 okay, I'm not getting this resolved. It's
11 invaluable information to me.

12 Q. Before this mediation had you ever had any
13 training from the circuit in sexual harassment?

14 A. No. I have never worked on a sexual
15 harassment case in my life to my knowledge and
16 don't know the standards, don't know anything, so
17 that's another reason I couldn't weigh into this
18 because I know nothing about it.

19 Q. Just to understand what you mean, was this
20 your first ever sexual harassment mediation?

21 A. To my knowledge it's the only sexual
22 harassment case I have ever mediated.

23 Q. Including the other EDR complaints?

24 A. Correct.

25 Q. Were you aware of whether Mr. Martinez was

1 of interest to Caryn.

2 Q. Did you think that Caryn was pleased with
3 the result?

4 A. She said she was. I can only base it on
5 that.

6 Q. On March 8 of 2019 did she tell you that
7 it felt like a very nicely packaged constructive
8 discharge?

9 A. I seem to remember reading that, but my
10 memory is it was before she had interviewed with
11 Judge Floyd and taken it. My memory is it was
12 brought up when we were talking about possible
13 options, but I do recall that being said, yes.

14 Q. So you recall that she communicated she
15 felt a clerkship would be a constructive discharge?

16 A. Right, something to that effect.

17 Q. Did she tell you that she had to give up a
18 career that she wanted because she was harassed and
19 retaliated against?

20 A. I have a memory that she said she felt
21 like that, but my understanding and my belief of
22 what was going to occur is that she was going to
23 take the clerkship. There was a possibility for
24 the Western District of Virginia to get her into a
25 Federal Defender's Office, so I didn't think that

1 CERTIFICATE OF REPORTER
2 STATE OF SOUTH CAROLINA
3 COUNTY OF CHARLESTON

4 I, Carol T. Lucic, Registered Professional
5 Reporter and Notary Public for the State of South
6 Carolina at Large, do hereby certify that the
7 witness in the foregoing deposition was by me duly
8 sworn to testify to the truth, the whole truth, and
9 nothing but the truth in the within-entitled cause;
10 that said deposition was taken at the time and
11 location therein stated; that the testimony of the
12 witness and all objections made at the time of the
13 examination were recorded stenographically by me
14 and were thereafter transcribed by computer-aided
15 transcription; that the foregoing is a full,
16 complete, and true record of the testimony of the
17 witness and of all objections made at the time of
18 the examination; and that the witness was given an
19 opportunity to read and correct said deposition and
20 to subscribe the same.

21 Should the signature of the witness not be
22 affixed to the deposition, the witness shall not
23 have availed himself/herself of the opportunity to
24 sign or the signature has been waived.

25 I further certify that I am neither
related to nor counsel for any party to the cause
pending or interested in the events thereof.

Witness my hand, I have hereunto affixed
my official seal on May 2, 2023, at Charleston,
Charleston County, South Carolina.

Carol T. Lucic
NCRA MERIT REPORTER
REGISTERED PROFESSIONAL REPORTER

My Commission expires: November 27, 2027